

ARCHITECTS SECTION MEETING

MINUTES

The Architects Section of the Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) met on January 29, 2003, at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia, with the following members present

Robert A Boynton
John S Clark, Jr
David L May, Jr

Staff present for all or part of the meeting were

Louise Fontaine Ware, Director
Karen W O'Neal, Deputy Director of Regulatory Programs
Mark N Courtney, Assistant Director
Marian H Brooks, Regulatory Board Administrator
Trisha L Henshaw, Administrative Assistant
Bonnie Rhea Adams, Assistant Director for Post-Adjudication
Susan Garbini, Legal Assistant

No representative was present from the Office of the Attorney General

Finding a quorum of the Section present, Mr May, Chair, called the meeting to order at 9 09 a m

Call to Order

Mr Boynton moved to approve the agenda as amended Mr Clark seconded the motion which was unanimously approved by members Boynton, Clark, and May

Approval of Agenda

Mr Clark moved to approve the minutes from the October 30, 2002, meeting as written Mr May seconded the motion which was approved by members Clark and May Mr Boynton abstained from the vote, as he was not present at the last meeting. The motion passed with a majority vote

Approval of Minutes

Duncan Abernathy, representative of the Virginia Society of the American Institute of Architects (VSAIA), spoke to the Section regarding several issues The first issue that Mr Abernathy discussed is Mr Courtney's response to his letter regarding professional corporations and professional liability corporations performing non-certified services Mr Abernathy indicated that Mr. Courtney's letter seems to indicate that

Public Comment

landscape architecture and interior design are separate and distinct professions from architecture Mr Abernathy stated that this was absolutely not true, many architecture firms provide interior design services only Mr Abernathy further stated that Mr Courtney's draft response implies that a professional engineering and landscape architecture firm could not perform wetland delininations, nor could a land surveying firm practice photogrammetry Mr Abernathy indicated that he did not believe this was the intent of the statute

Mr Abernathy also discussed the draft regulations put forth by the Regulatory Review Committee Mr Abernathy stated that in the definition of "profession" it discusses the practice of "certified landscape architecture" and "certified interior design " Mr Abernathy indicated that "certified" is part of a title, but that there is no such thing as the practice of certified landscape architecture or certified interior design, one can only practice landscape architecture or interior design

Finally, Mr Abernathy discussed statutes regarding the Board's authority versus the authority of a Section of the Board Mr Abernathy stated that § 54 1-411 C of the Code of Virginia empowers the Board to adopt regulations but does not prohibit the Board from delegating that power to its Sections Mr Abernathy stated that the power of the Board lies in its Sections, because each Section knows its profession best and is most able to determine who does or does not meet the requirements for certification and/or licensure Mr Abernathy stated that he is against actions that would take any authority away from the Sections in order to give it to the Board Mr Courtney clarified that § 54 1-411 C pertains only to the Board's authority to adopt regulations governing businesses

The Section members spoke with Charles Scott Hughes regarding his conditional architect license Pursuant to Consent Agreement No 99-1-98-02956 that Mr Hughes entered into with the Board, Mr Hughes agreed that upon passing the examination he would be granted a conditional license This conditional license requires that Mr Hughes meet with the Architects Section once a year during the three year period at a date and time specified by the Section Further, 30 days prior to these meetings, Mr Hughes must provide a list of the names, addresses and telephone numbers of all parties for whom he has provided architectural services and agrees to allow the Board to independently contact these parties Pursuant to these terms, the Section members were provided with information from Mr Hughes regarding his recent work experience and activities related to his architect license Mr Hughes stated that he has not attempted to get

Review
Conditional
License for
Charles Scott
Hughes

licensed in any other state and the only work he has done recently is residential design outside of Washington, D C and the design of a restaurant in Arlington, Virginia Mr Hughes indicated that he has not pursued licensure in any other state because he wants to wait until everything is cleared up with the Virginia Board The Section members thanked Mr Hughes for attending the meeting.

No other respondent, counsel for respondent or other representative, or participant without an appointment was present to speak before the Section

Call for
Respondent

Concerning File Number 2002-03286, Michael L. Musil, the Section members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcript and exhibits, and summary and recommendation of the presiding Board member Mr Clark moved to recommend that the Board accept the summary and recommendation of the presiding Board member and adopt the following

File Number
2002-03286,
Michael L.
Musil

Count I: Mr Musil's disciplinary actions in South Carolina, North Carolina, Oklahoma, and Mississippi, and failure to remain in good standing in those states, are a violation of 18 VAC 10-20-750 of the Board's 1999 regulations For this violation, a sanction of revocation of Mr Musil's architect license is recommended

Count II: Mr Musil's failure or refusal, upon request or demand, to respond to an investigator seeking information regarding a complaint filed with the Board, is a violation of 18 VAC 10-20-740(C) of the Board's 2002 regulations For this violation, a sanction of revocation of Mr Musil's architect license is recommended

Mr May seconded the motion which was unanimously approved by members Clark and May As the presiding Board member at the Informal Fact-Finding Conference, Mr Boynton was not present during the discussion or vote

Concerning File Number 2002-03629, Robert A. Steele, the Section members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcript and exhibits, and summary and recommendation of the presiding Board member. Mr Clark moved to recommend that the Board accept the summary and recommendation as to the facts and reject the sanction, and recommend imposition of a monetary penalty of \$250 due to the serious nature of Mr Steele's actions in certifying information to the board that was incorrect

File Number
2002-03629 -
Robert A.
Steele

Mr May seconded the motion which was unanimously approved by members Clark and May As the presiding Board member at the Informal Fact-Finding Conference, Mr Boynton was not present during the discussion or vote

The Board members discussed a memorandum from Mr Courtney regarding questions that have arisen pertaining to regulants who have received permission to modify drawings of another professional and whether the regulants who are making the modifications are to take responsibility for the entire drawing or only the modified portion of the drawing Mr Courtney stated that this issue was originally discussed at the APELSCIDLA Board meeting on December 11, 2002, however, the Board asked that each section review the letter so that a consensus could be reached for the APELSCIDLA Board meeting scheduled for March 12, 2003 The Section members stated that if the design has not been completed, then 18 VAC 10-20-760 A would apply, which states that the second professional must take responsibility for the entire project For an existing building, the Section members agreed that the written agreement between the two professional would need to indicate each professional's level of responsibility The professional making the modifications would also need to evaluate the impact on the structure of any changes that are made If responsibility is shared, then the sheets that have been modified would have the seal of both professionals, and, if necessary, parts of the design that have been modified may be shaded or clouded to indicate the separate responsibility Mr Courtney thanked the Section members for their input and stated that this issue will be reviewed by the remaining Sections and then placed on the APELSCIDLA Board meeting agenda for March

**Discussion of
Questions
Regarding
Regulation 18
VAC 10-20-
740.D and E**

The Section members discussed questions that have arisen regarding whether applicants who are from a non-English speaking country and are applying with an NCARB certificate must take the Test of Spoken English and Test of English as a Foreign Language (TSE/TOEFL) examinations Mr Boynton indicated that NCARB requires applicants for an NCARB certificate who are not from an English-speaking country take the TSE and TOEFL examinations Mr Boynton suggested that staff contact Rob Rosenfeld with NCARB to find out what, if any, TSE/TOEFL requirements an applicant from a French-speaking province of Canada would have to meet

**Discussion of
Foreign
Applicants**

The Board members also discussed a letter from Mr Abernathy of the VSAIA regarding businesses performing non-certified services, as well as a

**Letter
Regarding**

draft response to Mr Abernathy's letter Mr Courtney stated that this issue was originally discussed at the APELSCIDLA Board meeting on December 11, 2002, however, the Board asked that each Section review the letters so that a consensus could be reached for the APELSCIDLA Board meeting scheduled for March 12, 2003 By consensus, the Section members agreed with the contents of the letter after the removal of the two sentences referring to incidental work

Businesses
Performing
Non-Certified
Services

The Section members discussed the 2003 NCARB Joint Regional meeting and the 2003 NCARB Annual meeting As the Department will be unable to fund attendance at these meetings, the Section members discussed other funding options Mr Boynton stated that Region II of NCARB will be able to fund one person to attend the Regional meeting, and one person to the Annual meeting Also, NCARB will fund one person to the Annual Meeting After discussion, Mr May volunteered to attend the Regional meeting, and Mr Clark stated that he will check his schedule to determine if he will be able to attend the Annual meeting

Discussion of
2003 NCARB
Joint and
Annual
Meetings

The Section members took a break from 10 45 a m to 10 57 a m

Break

Mr May provided an overview of the work of the Regulatory Review Committee on the draft regulations After discussion, the Section members agreed by consensus to request at the March APELSCIDLA Board meeting that the Sections have more time to review the draft regulations in detail.

Regulations
from
Regulatory
Review
Committee

Mr Courtney provided the Section members with various memorandums and notices received by the Board office from NCARB during the last quarter

Quarterly
Information
from NCARB

Mr May discussed various issues related to electronic seals and signatures

Other Business

The Section members agreed by consensus to direct staff to have an investigator from the Department conduct an interview, in person, with Mr Hughes' clients The Section members provided several questions that they would like the investigator to ask Mr Hughes' clients

Mr Courtney discussed Senate Bill 879 regarding the registration of professional business entities Mr Courtney indicated that the Department was initially concerned with the language contained in the bill, however, the bill has since been amended and appears to be agreeable to the Department

Mr Courtney also discussed a resource guide that is being prepared by staff for use by building officials, the public, and regulants The resource guide will provide users with general information relevant to the professions regulated by the Board

Conflict of Interest forms were completed by all members present

Conflict of
Interest Forms.

There being no further business, the meeting was adjourned at 12 58 p m

Adjourn


David L. May, Jr., Chair


Louise Fontaine Ware, Secretary

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Custodian of Records